UN Convention against Transnational Organized Crime (UNTOC): protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition

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PURPOSE: the conclusion, on behalf of the European Union, of an additional Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council may adopt the act only if the European Parliament has given its consent.

BACKGROUND: the Council and Commission Action Plan implementing The Hague Programme on strengthening freedom, security and justice in the European Union6 listed among its relevant actions a proposal on the conclusion - on behalf of the European Community - of the United Nations Firearms Protocol (UNFP).

Its successor, the Stockholm Programme, reaffirmed that the Union should continue to promote ratification of international conventions (and their Protocols) in particular those developed under the auspices of the United Nations. Firearms' trafficking was also cited in the Internal Security Strategy as one of the forms of organised crime which the European Union needed to tackle.

In December 1998, the United Nations' General Assembly (UNGA) decided to establish an open-ended intergovernmental ad-hoc committee charged with drawing up a Convention against transnational organised crime (UNTOC), supplemented by three Protocols, one of which relates to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (Firearms Protocol).

In 2000, the Council authorised the Commission to negotiate the UNTOC and 'United Nations Firearms Protocol' (UNFP) on behalf of the European Community.

Negotiations on the UNFP lasted until May 2001 and this instrument was adopted by the UNGA on 31 May 2001. Authorisation to sign the UNFP was given by the Council in October 2001 and this instrument was formally signed by the European Community at the United Nations Headquarters in New York on 16 January 2002.

The conclusion of the UNFP was left for a later stage because it was considered that the Protocol comprised provisions requiring the adoption of **new legislation** and amendments to existing one.

More specifically, Directive 2008/51/EC amending Council Directive 91/477 ECC on control of the acquisition and possession of weapons and Regulation (EU) No 258/2012 implementing Art 10 of the UN Firearms Protocol and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition are among the concrete examples of this new legislation.

The UNFP entered into force on 3 July 2005. To date, 18 EU Member States have signed it and 16 Member States are contracting parties.

The Protocol should now be approved on behalf of the European Union.

LEGAL BASIS: Articles 114 and 207 of the Treaty on the Functioning of the European Union (TFEU), in conjunction with Art. 218(6) (a) thereof.

IMPACT ASSESSMENT: extensive consultations of different stakeholders have been carried out in parallel to the adoption of the European Union laws aiming at adapting Union law to the relevant provisions of the Protocol. An additional Impact Assessment **is not considered to be required** because this proposal represents the final step in fulfilling an international obligation, and Union law already complies with the standards set out in the Protocol.

CONTENT: under this proposal for a Decision, it is envisaged to approve the above-mentioned protocol on behalf of the European Union.

Scope: the UNFP is the **first global instrument in the fight against transnational organised crime and trafficking in firearms**. It sets out a very useful multilateral framework and a variety of important minimum standards for all participating States. It promotes cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

Main provisions: the text comprises provisions to:

- maintain detailed records on the import, export and in-transit movements of firearms;
- adopt an international system for marking firearms at the time of manufacture and each time they are imported;
- establish a harmonised licensing system governing the import, export, in-transit movement and re-export of firearms;
- prevent the theft, loss or diversion of firearms through the strengthening of export controls, export points and border controls;
- exchange information regarding authorised producers, dealers, importers and
- exporters, the routes used by illicit traffickers, best practice in combating trafficking in order to enhance states' ability to prevent, detect and investigate illicit trafficking in firearms.

Annex I: Annex I comprises the declaration of the extent of the European Union's competence with respect to matters governed by the Protocol, which has to be deposited together with the instrument of approval (Art. 17 (3) Firearms Protocol).

FINANCIAL IMPLICATIONS: the proposal has no implications for the EU's budget.